

1 A. Yes.

2 Q. You been there before with Walter?

3 A. Right.

4 Q. Before June 22d of last year?

5 A. Right.

6 Q. And when the two of you were together at the
7 levee prior to June 22d of last year, Weston was not
8 there with you?

9 A. Right.

10 Q. Now on June 22d, as I understand it, you're
11 saying that Weston and Walter were out looking for their
12 girlfriends when they met up with you?

13 A. Yes.

14 Q. Now when you gave the videotaped interview to
15 Detective Wade Lawson, that was on June 23rd, wasn't it?

16 A. I think it was still June 22d.

17 Q. Either the evening hours of June 22d or early --

18 A. June 23rd, 7 o'clock in the morning.

19 Q. Early morning of June 23rd, am I right?

20 A. Yes.

21 Q. And on that date did you tell Detective Wade
22 Lawson in the videotaped interview that the way you met
23 up with Weston and Walter that morning of the 22d was
24 because they were looking for their girlfriends?

25 A. Right.

1 Q. Isn't it true that you told Detective Lawson on
2 the videotape it actually started out when the three of
3 you were just out driving around?

4 A. We were driving around looking for their
5 girlfriends.

6 Q. And you said something this morning about having
7 let Walter and Weston off at Valley Street?

8 A. Right.

9 Q. And for how long were they dropped off there at
10 Valley Street before you picked them up again?

11 A. Quite sometime.

12 Q. Well, can you give me some idea when during the
13 day this happened?

14 A. Early in the morning, then later on that
15 afternoon I came back.

16 Q. So there is a period of several hours there when
17 the three of you are split up, is that right?

18 A. Right.

19 Q. Now before you dropped Weston and Walter off at
20 their house that morning, had there been a plan yet to
21 rob someone down at the levee?

22 A. Referring to Blazer? No.

23 Q. Well, now did you rob Blazer at the levee?

24 A. No.

25 Q. Speaking about Mark McDonald, do you remember

1 him?

2 A. Right.

3 Q. My question, Mr. Elofskey, is before you dropped
4 Walter and Weston off at their home in the morning of
5 June 22d, had there already been a plan about robbing
6 someone at the levee that day?

7 A. I think so.

8 Q. You think so. Are you not sure about that?

9 A. Not totally.

10 Q. You're not sure just when this plan was created
11 that day?

12 A. Not totally sure.

13 Q. In any event, you say you came back and picked up
14 the two of them at their home later on the afternoon of
15 the 22d?

16 A. Right.

17 Q. And this is when you say the three of you drove
18 out to the levee, is that right?

19 A. Right.

20 Q. And the plan was to rob someone there?

21 A. Right.

22 Q. And Walter had a gun?

23 A. Yes.

24 Q. And his gun was loaded?

25 A. As far as I know.

1 Q. Usually is, isn't it?

2 A. What do you mean?

3 Q. Well, you know he carries a loaded gun around,
4 don't you?

5 A. He didn't carry one until that time.

6 Q. Until that day he hadn't carried a loaded gun
7 around?

8 A. Not that I know of.

9 Q. Where did he carry that unloaded gun prior to
10 June 22d?

11 A. He didn't carry an unloaded gun either. Maybe
12 once when me and him was out with one of my
13 ex-girlfriends and that was in her glove compartment.

14 Q. So when you picked Walter up on the afternoon of
15 the 22d, you knew that he had a gun and you assumed it
16 was loaded, am I right?

17 A. On the afternoon of the 22d when me and him went
18 out, he didn't have a gun with him.

19 Q. I'm talking about when you say you picked up
20 Weston and Walter at their home in the afternoon of the
21 22d.

22 A. Right.

23 Q. And before you went out to the levee, am I
24 correct, you understood that Walter had a gun on him?

25 A. He didn't have a gun on him when we went to the

1 levee that day.

2 Q. He had no gun?

3 A. He had no gun with him 'cause we just left -- we
4 went to the hospital and he didn't take one with him
5 there.

6 Q. He wouldn't carry a loaded gun through the
7 hospital, would he?

8 A. No.

9 Q. Let me see if we can get together on this. This
10 is before the first man was robbed and killed that I'm
11 talking about. Do you understand?

12 A. I'm talking about -- I thought you were talking
13 about after.

14 Q. I want to be sure you understand me. Before the
15 first man was robbed and killed late on the 22d, you
16 picked Walter up at his home in the afternoon?

17 A. No, I didn't.

18 MR. SLAVENS: Objection to that, your
19 Honor.

20 THE COURT: As to the phraseology,
21 sustained.

22 BY MR. ARNTZ:

23 Q. My question to you, Mr. Elofskey, is, before --
24 at the time you picked Walter up at his home in the
25 afternoon of June 22d, and before you went out to the

1 levee before the first man was killed, did you
2 understood that Walter had a gun with him or not?

3 MR. SLAVENS: Objection. That's not the
4 testimony.

5 MR. ARNTZ: I'm only asking.

6 THE COURT: Well, it's the way you're
7 asking the question, Mr. Arntz. Sustained.

8 BY MR. ARNTZ:

9 Q. Let me try this. A man was robbed and killed at
10 the levee, am I right?

11 A. Not at the levee.

12 Q. At Monument and Findlay?

13 A. Right.

14 Q. Okay. And when the man was robbed and killed at
15 Monument and Findlay, did Walter have a gun with him?

16 A. Yes, he did.

17 Q. And was that gun loaded?

18 A. I didn't, I didn't open it up and check.

19 Q. Is that a no or I don't know?

20 A. I don't know.

21 Q. I don't know?

22 A. It might have been loaded; it might not have
23 been.

24 Q. How do you know that Walter had a gun with him
25 there at that time?

1 A. Because I seen them both.

2 Q. Where did you see Walter's gun?

3 A. In his hand.

4 Q. And which hand was he holding it in?

5 A. I think his right.

6 Q. And what was happening when you saw Walter
7 holding his gun in his right hand?

8 A. He was laying down on the back, back floorboard.

9 Q. This was before the first man was robbed and
10 killed, am I right?

11 A. Right. A couple minutes before. When it was in
12 the process.

13 Q. Okay. Now you said this morning that you were
14 out there looking for a fag to rob?

15 A. All three of us were.

16 Q. Is that a yes?

17 A. Yes.

18 Q. And is this something you had done before there?

19 A. No.

20 Q. What made you think that you could rob a
21 homosexual out there that day?

22 A. I don't know.

23 Q. Well, now you told the prosecutor that
24 homosexuals won't come up to your car, you thought, if
25 he saw three people in it?

1 A. Right.

2 Q. Do you remember that?

3 How would you know that?

4 A. 'Cause usually I wouldn't walk up to a car with
5 three people in it if I didn't know none of it.

6 Q. Had you had a experience like this before out at
7 the levee with a homosexual?

8 MR. SLAVENS: Objection, your Honor.

9 THE COURT: Overruled.

10 MR. ARNTZ: Can you read the question
11 back, please?

12 (WHEREUPON, the Court Reporter read back the
13 last question.)

14 A. What do you mean?

15 BY MR. ARNTZ:

16 Q. Well, you had been out to the levee before
17 hustling, am I right?

18 A. Right.

19 Q. Okay. And you understood based upon your
20 experience out at the levee hustling that homosexuals
21 would not approach your car if there were three people
22 in it, is that what you're saying?

23 A. Yes. Right.

24 Q. All right. Now, how was it based upon your
25 experience in the past you, you would come to that

1 conclusion?

2 A. 'Cause I have been up there with friends of mine
3 before.

4 Q. Can you explain a little bit more? What
5 difference does it make what number of people are in the
6 car?

7 A. 'Cause it just scares them away.

8 Q. Well, would three scare them away more than two,
9 is that it?

10 A. Yes.

11 Q. Did you tell Detective Wade Lawson that Walter
12 was covered up inside your car that day?

13 A. He was wearing black. There was a blanket in the
14 back seat.

15 Q. Was he or was he not covered up on the floorboard
16 or back seat that day?

17 A. I don't recall.

18 Q. Do you remember telling Detective Wade Lawson
19 that he was covered up?

20 A. I might have. Like I said, I don't recall.

21 Q. And you say that the man came up and spoke to
22 you; and you moved your cars to another location; and
23 then the man approached your car, the driver door
24 window, am I right?

25 MR. SLAVENS: Objection, your Honor.

1 THE COURT: I'm going to sustain the
2 objection, Mr. Arntz. One question at a time, I think
3 we'll be all right.

4 BY MR. ARNTZ:

5 Q. All right. You met Mark McDonald the first time
6 there at the levee, am I right?

7 A. Right.

8 Q. You spoke to each other, am I right?

9 A. Right.

10 Q. And then the two of you moved your cars to
11 another location, am I correct?

12 A. Correct.

13 Q. And when you arrived at the other location,
14 McDonald got out of his car and walked up to your car?

15 A. Right.

16 Q. And he began speaking to you through the driver's
17 door window?

18 A. Right.

19 Q. Now, was he speaking to anyone other than you at
20 that time?

21 A. He noticed Weston on the floorboard of the car.

22 Q. I'm talking about when he first approached your
23 driver's door window, began to speak to you through the
24 window. He was mainly talking to you?

25 A. Yes.

1 Q. Well, now, how soon after he walked up to your
2 window do you say he saw Weston in the car?

3 A. As soon as he looked down in the car.

4 Q. So the two of you, you and McDonald didn't have
5 much conversation then before McDonald saw Weston?

6 A. Other than talking to the passenger window when I
7 rode -- when I was talking to him up in the park through
8 the passenger side window, we pulled along each other.

9 Q. Did you -- didn't you tell the prosecutor about
10 45 minutes ago that yourself and McDonald spent about
11 five minutes talking before he saw Weston?

12 A. We were talking, yes. But he noticed Weston on
13 the floorboard.

14 Q. You remember telling the prosecutor it was five
15 minutes before he saw anyone else in the car?

16 A. I don't know.

17 Q. And do you remember telling Detective Wade Lawson
18 in your videotaped interview that the guy outside was
19 talking to us?

20 A. What do you mean talking to us?

21 Q. Well, did you tell Detective Wade Lawson that the
22 guy outside the car was talking to us instead of you?

23 A. He was talking to me but then he also referred to
24 Weston.

25 Q. And do you remember telling Detective Wade Lawson

1 that the guy at your window was talking like a jerk?

2 A. Yeah, he was.

3 Q. Now, did you tell the prosecutor about 45 minutes
4 ago that the man at your window was talking about normal
5 things?

6 A. Pretty much normal things.

7 Q. And now what do you mean when you say he was
8 talking like a jerk?

9 A. When he first approached the car, he was a jerk.
10 He just had an attitude problem starting out with and he
11 mellowed out.

12 Q. Then this is when you say after sometime Weston
13 is saying now? now? now?

14 A. Yes.

15 Q. Now did you ever tell a story that Weston said to
16 you, can I rob him?

17 A. That's what the deal was, we was supposed to rob
18 him.

19 Q. Mr. Elofskey, have you ever told the story that
20 Weston said to you, can I rob him?

21 A. I don't know.

22 Q. You don't know one way or the other?

23 A. No.

24 Q. Have you ever told the story that Weston said to
25 you, can I rob him three times?

1 A. Can I rob him three times?

2 Q. Three times said to you, can I rob him?

3 A. He just kept saying now? now? now?

4 Q. So the answer is, no, you don't remember telling
5 someone that?

6 A. I told him to hang on for a minute, say, wait,
7 wait a minute, wait a minute.

8 Q. You remember telling the story that Weston said,
9 fuck it, and then fired the gun?

10 A. I don't know. I don't recall.

11 Q. You don't know whether you said that or not?

12 A. Right.

13 Q. You remember telling the story that Weston said,
14 I want your money, and fired the gun?

15 A. I don't recall.

16 Q. And you said that when Weston had the gun, it was
17 somehow hidden under your leg, is that right?

18 A. Right.

19 Q. And I take it that if he fired the gun out your
20 driver's door window, he had to get the gun out from
21 under your leg somehow?

22 A. If I'm sitting like I am now the same way I was
23 sitting in the driver side of my car, if it's tucked up
24 your right leg, all he has to do is pull it out.

25 Q. Are you saying he pulled it out from under your

1 leg and reached over toward the driver's door window?

2 A. His arm was already stretched out, all he had to
3 do is pull it up.

4 Q. That's my question. Are you saying he stretched
5 his arm out in front of you toward the driver's door
6 window?

7 A. Right.

8 Q. And where was McDonald when you say Weston had a
9 gun stretched out toward the driver's door window?

10 A. Standing right outside the driver's door.

11 Q. My question to you is, how close is he to the
12 driver's door window at that time?

13 A. Very close.

14 Q. Does he have his hands or arms on the driver's
15 door window?

16 A. I think he did. I'm not sure.

17 Q. Okay. Was his face or head close to the driver's
18 door window?

19 A. Yes.

20 Q. And when you say Weston had this gun aimed
21 outside the window, his arm?

22 A. It wasn't completely outside the window.

23 Q. No, but aimed toward the window?

24 A. Right.

25 Q. He must have had that armed stretched in a

1 straight line right in front of your face?

2 A. When the gun went out, it was right next to my
3 face.

4 Q. The gun was right next to your face? Is it
5 surprising to you?

6 A. I couldn't hear out of my left ear for a while.

7 Q. Were you startled when a gun was fired directly
8 in front of your face?

9 A. Yes.

10 Q. You didn't expect that to happen?

11 A. I don't recall at that time.

12 Q. Well, wasn't that a little dangerous for Weston
13 to fire the gun right in front of your face like that?

14 MR. SLAVENS: Objection, your Honor.

15 THE COURT: Sustained.

16 BY MR. ARNTZ:

17 Q. Did you think you were yourself in some kind of
18 danger to have a gun fired so closely in front of your
19 face like that?

20 MR. SLAVENS: Objection.

21 THE COURT: Overruled.

22 A. If it backfired, it probably would have.

23 BY MR. ARNTZ:

24 Q. Could have gotten hurt, couldn't you?

25 A. Yeah.

1 Q. That wasn't part of the plan, was it?

2 A. What's that?

3 Q. To fire a gun right in front of your face like
4 that?

5 A. No.

6 Q. You wouldn't have agreed to that, would you?

7 A. No.

8 Q. This is when you say that Weston and Walter got
9 out of the car and ran?

10 A. Ran after the guy.

11 Q. And did you ever tell the story that Weston
12 caught up to the man and shoved his face down into the
13 ground or the mud or the dirt?

14 A. Drug him to the ground.

15 Q. My question is, do you ever tell the story that
16 Weston pushed the man's face, face down into the mud?

17 A. Pushed him to the ground, yes.

18 Q. Mr. Elofskey, my question is, did you ever tell
19 the story that Weston pushed the man's face down into
20 the ground or the mud?

21 MR. SLAVENS: Objection, your Honor.

22 THE COURT: Now overruled.

23 Listen to the question,

24 Mr. Elofskey. I think there is just a communication
25 problem here.

1 BY MR. ARNTZ:

2 Q. What was your answer?

3 A. I think so.

4 Q. You think so. Is that something you say you saw?

5 A. Yes.

6 Q. Where were you when you saw that?

7 A. In the driver seat of my car.

8 Q. And you say that afterwards there were three or
9 four different trips to Green Machines to try to use a
10 Green Machine card?

11 A. Right.

12 Q. You went to one place twice?

13 A. Right.

14 Q. And do you remember telling the story that you
15 only went to two locations to try --

16 A. Three locations.

17 Q. -- to try to use the Green Machine card?

18 A. Two or three locations.

19 Q. Well, my question is, do you remember telling the
20 story you only went to two locations that night?

21 A. It's been so long, I don't remember.

22 Q. You don't know one way or the other?

23 A. Right.

24 Q. Would -- why would you need three people to rob
25 McDonald that night?

1 MR. SLAVENS: Objection, your Honor.

2 THE COURT: Overruled.

3 A. I don't know.

4 BY MR. ARNTZ:

5 Q. I think you told the prosecutor this morning that
6 you were very nervous after the shooting, is that right?

7 A. Yes.

8 Q. And scared, I guess?

9 A. Right.

10 Q. And you remember telling that you had gone to a
11 house afterwards and laughed about the whole thing?

12 A. What do you mean?

13 Q. Well, do you remember going to a house and
14 laughing about what had happened that night afterwards?

15 A. Not that night afterwards, no. I took them home
16 and I went home.

17 Q. Well, my question is, first of all, was there a
18 time when you went elsewhere after trying to get this
19 money out of the Green Machine and actually laughed with
20 people about what had happened that night?

21 MR. SLAVENS: Objection, your Honor.

22 He's asked that question.

23 THE COURT: Last time. Overruled.

24 A. I think so, but I really don't know.

25

1 BY MR. ARNTZ:

2 Q. Do you remember telling Detective Wade Lawson on
3 the videotaped interview that there was this laughing
4 session afterwards?

5 A. I don't remember. That's been eight months and a
6 week ago. You tend to forget about things.

7 Q. If there had been a laughing session, then you're
8 nervousness must have passed by that time?

9 A. Right.

10 THE COURT: Why don't we go ahead and
11 take our morning break at this point in time.

12 Ladies and gentlemen of the
13 jury, remember the usual instructions from the Court
14 not to discuss the case among yourselves or with
15 anybody else. I'm not sure which way you head here.
16 But we will land you in an appropriate jury room.
17 Don't form any opinions. We'll see you back in
18 approximately 15 minutes.

19
20 (WHEREUPON, a recess was taken.)
21
22
23
24
25

IN OPEN COURT - BEFORE THE JURY

11:11 a.m.

THE COURT: You may continue, Mr.

Arntz.

MR. ARNTZ: Thank you.

BY MR. ARNTZ:

Q. Mr. Elofskey, let me take you back to the first shooting out at the Monument and Findlay area. And I want to ask you, when you drove away from that area, where was Mr. McDonald?

A. On the ground.

Q. Okay. Was he on his side, on his back, on his front?

A. I don't remember.

Q. Was he moving?

A. I don't know. All I seen was once they jumped in the car, I looked over, he was laying on the ground. I took off.

Q. He wasn't walking, stumbling, staggering, anything like that?

A. All I know is from what Walt told me when he jumped back in the car, he was mumbling.

Q. Now, as I understand it, it was sometime later in the day you took Walt to the hospital to have some work done, is that right?

1 A. Right. He shot himself in the foot.

2 Q. What time was that?

3 A. Afternoon somewhere.

4 Q. You have to keep your voice up so everyone can
5 hear.

6 A. In the afternoon. Sometime in the afternoon.

7 Q. And I think you told me before the break this
8 morning that you weren't aware of whether or not Walter
9 carried a loaded gun prior to June 22d. You remember
10 that?

11 A. Right.

12 Q. But if he shot himself in the foot, he must have
13 carried a loaded gun, is that right?

14 MR. SLAVENS: Objection, your Honor.

15 THE COURT: I understand the point.

16 I'm going to overrule the objection. You're allowed
17 to explain your answer.

18 A. He did that while I wasn't with him. He did that
19 in his own house.

20 BY MR. ARNTZ:

21 Q. But he did that with a gun, didn't he?

22 A. I didn't see him do it. That's from what I was
23 told.

24 Q. And you were told that by Walt?

25 A. Told that by Walt and Weston.

1 Q. Uh-huh. This second incident you were talking
2 about, you said that, if I understand it, you and Walter
3 are riding around in your car again, you're out at the
4 levee area?

5 A. Right.

6 Q. And where is Weston when this is happening?

7 A. At home with his girlfriend.

8 Q. Well, he's certainly not in your car with you and
9 Walt, is he?

10 A. No.

11 Q. And when you're riding out in the levee area now,
12 you are looking for someone you know, aren't you?

13 A. No.

14 Q. Would it be incorrect if I were to testify or say
15 that you were looking for someone when you were out
16 there that day?

17 A. I wasn't looking for anybody that day.

18 Q. Well, you knew that Richard Blazer might be out
19 there, did you?

20 A. No, I did not.

21 Q. Did you tell Detective Wade Lawson in your
22 videotaped interview that you knew Dick Blazer because
23 you had been out with him plenty of times before?

24 A. Yes.

25 Q. You called him queer in a fag park?

1 A. Called him a queer in a fag park?

2 Q. That's right. Do you remember saying that to
3 Detective Wade Lawson?

4 A. I don't recall. I might have. I might not have.

5 Q. But in any event, you knew Blazer personally
6 prior to June 22?

7 A. Yes.

8 Q. You had been to his house before?

9 A. Yes.

10 Q. And when you went to his house before, you had
11 driven that Monza automobile, hadn't you?

12 A. On one occasion.

13 Q. When you went to his house on an earlier occasion
14 in that Monza automobile, you parked that car in the
15 driveway, didn't you?

16 A. Yes, I did.

17 Q. And when you went to his house on the earlier
18 occasion in your Monza, you and Richard had an argument
19 about money, didn't you?

20 A. No, we did not.

21 Q. And you in fact took something from him that day,
22 didn't you?

23 A. No, I did not.

24 Q. Well, on June 22d when you were out at the levee
25 with Walter, you did run into Richard Blazer and you and

1 Richard had a conversation, didn't you?

2 A. Yes, we did.

3 Q. And I didn't hear you say this morning whether
4 Walter participated in that conversation or not.

5 A. He set quiet in the passenger seat listening to
6 the stereo.

7 Q. Walter was listening to the stereo and not
8 listening to your conversation with Blazer?

9 A. He was listening, he was listening to our
10 conversation but he wasn't participating in it.

11 Q. What did you tell Richard Blazer about Walt?

12 A. He asked who was my friend. I said this is the
13 guy named Tommy. And Walt said hi. And that's it.

14 Q. Now, why did you tell Blazer that Walt's name was
15 Tommy?

16 A. Well, I really don't know at that time. Just to
17 keep his identity to himself.

18 Q. Well, is that the only reason you can think of
19 why you told Blazer that Walt's name was Tommy?

20 A. Yes.

21 Q. Wasn't it true you had already decided to rob
22 Richard Blazer and that's why you told him that Walt's
23 name was Tommy?

24 A. No, I did not.

25 Q. And when you talked with Richard, the two of you

1 were talking about money again, weren't you?

2 A. No, we were not.

3 Q. And Richard offered you money at that time,
4 didn't he?

5 A. No, he did not.

6 Q. And when Walt was sitting there in your car with
7 you, you and Richard were discussing whether Richard
8 would give you some money?

9 A. No, we did not.

10 Q. And when Richard left your car at that time, you
11 talked with Walt a little bit more about Richard, didn't
12 you?

13 A. I don't recall.

14 Q. And you said to Walt something about, we just set
15 up another one, didn't you?

16 A. No, I did not.

17 Q. And when you spoke to Detective Wade Lawson after
18 you were arrested, you told Detective Wade Lawson that
19 you turned to Walt and said, we set up another one,
20 didn't you?

21 A. No, I did not.

22 Q. And you were still too scared at the time you met
23 Richard at the levee that day about what happened the
24 previous evening to plan a robbery, is that it?

25 A. No. I pretty much got over that.

1 Q. You got over that man being killed a few hours
2 earlier?

3 A. No. I still had deep feelings but the nervous
4 was gone.

5 Q. What, you had deep what kind of feelings?

6 A. Feelings. I was still nervous to a point. I
7 pretty much got over, over it.

8 Q. Feeling of regret and remorse?

9 A. Yeah, pretty much.

10 Q. Pretty much.

11 You remember speaking to a Lori Campbell a few
12 weeks ago, probation officer?

13 A. Yeah.

14 Q. You remember telling --

15 MR. SLAVENS: Objection, your Honor. May
16 we approach the bench?

17 THE COURT: You may.

18 (WHEREUPON, a side-bar conference was held
19 off the record.)

20 MR. SLAVENS: Withdraw the objection,
21 your Honor.

22 BY MR. ARNTZ:

23 Q. Mr. Elofskey, you said you had deep feelings of
24 regret and remorse about the first man who was killed.
25 My question is whether you remember speaking to a

1 probation officer named Lori Campbell just a couple
2 weeks ago?

3 A. I talked to a lady. I didn't know her name. She
4 didn't address herself by any name.

5 Q. And you spoke to her about this case, didn't you?

6 A. No, I did not.

7 Q. And your conversation with her was in the county
8 jail, wasn't it?

9 A. The paperwork I filled out was in the county
10 jail. She was talking to Walter. She was talking to
11 Walter Polson at the time I was filling out the
12 paperwork.

13 Q. You told her you drove a God damn car --

14 MR. SLAVENS: Objection.

15 Q. -- while two jerks blew two fucking fags away.

16 THE COURT: Wait a minute. Wait a
17 minute. As I understand it, you did not talk --
18 you're saying you did not talk to this person?

19 A. I did not.

20 THE COURT: That's the question and
21 that's the answer.

22 BY MR. ARNTZ:

23 Q. Who was the woman you remembered talking to?

24 A. I didn't talk to nobody. She just handed me the
25 paper, four or five pages of probation papers to fill

1 out. She was talking to Walter at the time I was
2 filling out the papers. The only thing we talked about
3 here was taking a picture of me and that was it.

4 Q. Well, now, when you asked for Richard Blazer's
5 telephone number there at the levee when Walt was in
6 your car, what was the purpose of that?

7 A. He asked me why I haven't called him. 'Cause, I
8 said, I ain't got your number. He gave me his number.
9 I didn't ask for it.

10 Q. You knew at the time you had his number you were
11 going to use it later the same day, didn't you?

12 A. No, I did not.

13 Q. But you did use it, didn't you?

14 A. Yes, I did.

15 Q. Very shortly afterwards?

16 A. About six hours later.

17 Q. Six hours. What happened during that six hours?

18 A. Well, we talked, me and Weston and Walter talked.
19 And then I went and see my wife and kid for a while and
20 I came back.

21 Q. Well, now, last time we left you and Walter in
22 the car, Richard had just given you his telephone
23 number. And then you and Walter drove a little bit
24 farther together, didn't you?

25 A. We drove to his house where Weston was.

1 Q. Did you and Walter talk in the car on the way
2 back to the house about having just met up with Richard
3 Blazer?

4 A. We didn't talk about him at all.

5 Q. So your testimony is that there never was a plan
6 to rob Richard on the way back to Walter's house?

7 A. No, there wasn't.

8 Q. And that plan didn't come until later on the
9 night? This came to you hours later, I take it?

10 A. Pretty much.

11 Q. Well, now, when this plan came to you to rob
12 Richard Blazer, was that after you stopped at home?

13 A. What do you mean after I stopped at home?

14 Q. You said you went home to where your wife was, do
15 you remember that?

16 A. We were separated at that time. I, I went to see
17 her and my kid.

18 Q. Do you go to your own home sometime that day
19 before you meet up with Walt again?

20 A. I went to her house and they came back to Walt's.

21 Q. Well, are you -- let me ask you this. When you
22 go out that evening to the Tennyson Avenue address of
23 Richard Blazer, are you still wearing the same clothes
24 you were wearing the night before?

25 A. No.

1 Q. No.

2 You changed your clothes in the afternoon
3 sometime, didn't you?

4 A. I changed my clothes that morning after the
5 incident happened.

6 Q. What time of day did you change your clothes?

7 A. Early morning hours, probably about 8 o'clock in
8 the morning.

9 Q. Where was that?

10 A. My grandmother's house where all my clothes are.

11 Q. And so the clothes that you were arrested in were
12 the clothes you changed into in the morning?

13 A. Right.

14 Q. I guess in the morning you put on two sets of
15 clothing, did you?

16 A. I had the Georgetown outfit already on. I put
17 jeans and jacket over on top. I borrowed the jacket
18 from Walter and Weston.

19 Q. So you had a Georgetown outfit, then you had
20 another whole set of clothing over that, didn't you?

21 A. I had the Georgetown outfit with a pair of blue
22 jeans over top.

23 Q. June 22d is already summertime, isn't it?

24 A. Right.

25 Q. And that second set of clothing underneath came

1 in handy when you were trying to elude the police later
2 that evening, didn't it?

3 A. Yes, it did.

4 Q. And you wouldn't have planned to put two sets of
5 clothing on before you went out that night, would you?

6 A. No, I did not.

7 Q. It just happened to be a convenient coincidence
8 that you were wearing those clothes that you striped
9 down to when you were running away from where you
10 ditched that car?

11 A. Right.

12 Q. Now on the way to the Tennyson home, you were
13 telling Weston Howe that he needed to hide in your car,
14 is that right?

15 A. That was the plan, he was to lay down in the car.

16 Q. Well, my question to you is, did you tell him to
17 hide in your car? Is that your testimony?

18 A. I don't recall.

19 Q. Do you not remember who told who to do what?

20 A. I think it was planned for him to lay down in the
21 car.

22 Q. So the statement that you made Weston hide in
23 your car, would be a false statement, wouldn't it?

24 A. What do you mean?

25 Q. Well, it's a false statement that you made Weston

1 hide in your car, is that what you are saying?

2 A. Weston laid down in the car. Blazer only knew
3 that two of us were coming. If he had seen three, he
4 would thought something was up.

5 Q. And you are still over that incident from the
6 previous evening, aren't you now?

7 A. Yes.

8 Q. Completely recovered from that.

9 Your plan now --

10 MR. SLAVENS: Objection to editorial
11 comments, your Honor.

12 THE COURT: I will sustain the
13 objection. You are instructed to disregard.

14 BY MR. ARNTZ:

15 Q. Your plan now is that you and Walt are going to
16 go into the house and rob Richard?

17 A. Our plan was to go into the house and Walt was to
18 pull out his gun. I was to leave the house and go start
19 the car.

20 Q. Well, what happened to that story that you were
21 going to duct tape Richard and leave him in his house?

22 A. That was the deal.

23 Q. Where was that duct tape was going to come from?

24 A. I don't know what happened to it.

25 Q. Well, now, was there duct tape there or not?

1 A. There was duct tape in my car.

2 Q. In your car, is that what you're saying?

3 A. Yes.

4 Q. Your duct tape?

5 A. Mine, yes.

6 Q. And now when you and, you and Walt, he went into
7 Richard's house, did you guys forget to bring the duct
8 tape?

9 A. I don't remember.

10 Q. And do you remember a story that there was a plan
11 to take Richard to a Green Machine and make him take the
12 money out of his own account?

13 MR. SLAVENS: Objection, your Honor.

14 (Pause in the proceedings.)

15 THE COURT: I'm just trying to keep the
16 noise down a little bit.

17 MR. ARNTZ: There was a question and
18 there is an objection.

19 THE COURT: I missed the whole thing,
20 all right. That's why everybody was looking at me.

21 What's the question?

22 (WHEREUPON, the Court Reporter read back the
23 last question.)

24 THE COURT: Overruled.

25 A. Yes, there was.

1 BY MR. ARNTZ:

2 Q. How was Richard going to be taken to a Green
3 Machine against his will to take money out of his
4 account?

5 A. Well, if your hands are duct taped and your feet
6 duct taped, you have no choice, pick you up and carry
7 you.

8 Q. Were you guys going to carry him while his hands
9 and feet were bound into your Monza automobile, is that
10 the point?

11 A. We might have. I don't know. It never got that
12 far.

13 Q. You hadn't worked out that detail yet?

14 A. No.

15 Q. And Richard was kind of a large man, wasn't he?

16 A. Yes, he was.

17 Q. Do you think there was room for him to ride along
18 in your Monza automobile duck taped like that with the
19 other three of you?

20 A. Yes, there was.

21 Q. It's all part of the plan?

22 A. Huh?

23 Q. That was all part of the plan?

24 A. What, riding in my car?

25 Q. Right.

1 A. No. We were going to take his.

2 Q. You were going to take his car. And Walter knew
3 about that part of the plan, taking Richard's car,
4 didn't he?

5 A. Yes, he did. So did Weston.

6 Q. And what was your condition when you drove out to
7 Tennyson that night?

8 A. What do you mean my condition?

9 Q. Well, had you taken anything, had any drugs or
10 taken anything to drink?

11 A. Yes, I was.

12 Q. What did you have to drink?

13 A. I had a couple of beers.

14 Q. Couple of beers. Did you have a ten quart
15 Budweiser before you went out that night?

16 A. It was a 40 ounce.

17 Q. 40 ounce. And was that to get up the courage to
18 do what you were going to do out there?

19 A. It was just to be drinking.

20 Q. And what was Walter's condition out there that
21 night?

22 A. Sober, as far as I know.

23 Q. Completely straight and sober, is that it?

24 A. As far as I know. I wasn't with him earlier, so
25 I don't know whether he did drugs while I was seeing my

1 wife.

2 Q. Walter, could have done drugs while you were
3 gone; you wouldn't know one way on the other?

4 MR. SLAVENS: Objection, your Honor.

5 THE COURT: Sustained.

6 BY MR. ARNTZ:

7 Q. When you and Walter got out of the car, he
8 stopped to urinate on the bushes on the way inside the
9 house?

10 A. No, he did not.

11 Q. That's a lie, isn't it?

12 A. Yes.

13 Q. And I think you testified here that everything
14 was fine, that Richard let you and Walter into his
15 house, is that right?

16 A. That's right.

17 Q. You remember telling Detective Wade Lawson that
18 he at first would not allow you two guys into his house?

19 A. He let us in the house with no, you know, he
20 didn't --

21 MR. SLAVENS: May we approach, your
22 Honor?

23 THE COURT: You may.
24
25

1 AT SIDE BAR

2 MR. SLAVENS: If it please the Court, we
3 would like to voice an objection to the last question
4 where there is an inference that this witness told
5 something to Detective Lawson about Mr. Blazer not
6 letting them in. I'm somewhat familiar with my
7 recollection of the conversations of this defendant
8 with Detective Lawson and to the video. And I presume
9 that's what he's making reference to. I'm not at all
10 familiar with that type of question or answer and
11 therefore for him to ask it in front of the jury and
12 in the format he's done it in, makes an inference that
13 this witness is lying.

14 THE COURT: All right.

15 MR. ARNTZ: I believe there is a
16 reference in Wade Lawson's offense supplementary
17 report that Elofskey told him that Blazer did not
18 allow them into the house.

19 THE COURT: Now this is what we'll do
20 at this point. I don't know what Wade Lawson -- this
21 is Wade Lawson we are talking about? What Wade Lawson
22 will say on that subject. I'm assuming that the
23 foundation is being asked to ask Wade Lawson a
24 question. If, if the question is either not asked or
25 denied, then obviously -- well, if it's not asked at

1 all, the State can ask the question of that witness.

2 MR. SLAVENS: Read to clear it up.

3 THE COURT: But at this point I don't
4 see how I can sustain the objection in view of Mr.
5 Arntz's representation there is some reference to that
6 issue in a police report. But it can be dealt with
7 either by the State or the defendant.

8 MR. SLAVENS: There is a whole host of
9 these type of questions.

10 THE COURT: All along I've assumed when
11 one or the other Lawson hits the witness stand,
12 they're going to deal with these --

13 MR. SLAVENS: The problem, yeah.

14 THE COURT: So at least at this point
15 the objection is overruled. But again, if it's not
16 pursued by the defendant of the witness because the
17 defendant fears a negative answer from the witness --

18 MR. SLAVENS: This one or Elofskey?

19 THE COURT: Wade Lawson, then I will
20 permit the State to ask the question specifically to
21 clear up the issue.

22

23

24

25

BEFORE THE JURY

THE COURT: You want the question read back?

MR. ARNTZ: Yes, please.

(WHEREUPON, the Court Reporter read back the following question: Q. You remember telling Detective Wade Lawson that he at first would not allow you two guys into his house?)

A. And I answered that he didn't -- he let us in with no resistance at all.

BY MR. ARNTZ:

Q. So the answer would be, no, you never said that to Detective Wade Lawson?

A. Said what?

Q. That Richard at first did not allow you two into his house?

A. Right.

Q. And when you went into his house with no resistance, you remember there is a screen door there?

A. Right.

Q. And then a second door, isn't there?

A. Right.

Q. Do you remember him unlocking one of those doors to let you guys in?

A. The big metal door or wooden door was already

1 open.

2 Q. Did he unlock either of those doors to let you
3 two in?

4 A. He just opened up the screen door.

5 Q. Is that a no, that he did not unlock either door?

6 MR. SLAVENS: Objection.

7 THE COURT: Overruled.

8 BY MR. ARNTZ:

9 Q. Answer?

10 A. Right.

11 Q. He did unlock the door?

12 A. He didn't.

13 Q. He did not unlock a door.

14 And you brought a knife along here, didn't you?

15 A. No, I did not.

16 Q. You had a knife in your car?

17 A. Yeah, there was a knife in the car.

18 Q. And Richard, excuse me, Walter had his gun with
19 him when he went into Richard's house?

20 A. Yes, he did.

21 Q. And the gun was where?

22 A. In his pants in his hand.

23 Q. And I think you said this morning that the two of
24 you, yourself and Walter were in Richard's house about
25 one minute before things got started?